

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

AMO DEVELOPMENT, LLC, )  
AMO MANUFACTURING USA, LLC, )  
and AMO SALES AND SERVICE, )  
INC., )

Plaintiffs, )

v. )

ALCON VISION, LLC, ALCON )  
LABORATORIES, INC., and ALCON )  
RESEARCH, LLC, )

Defendants. )

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ALCON, INC., ALCON RESEARCH, )  
LLC and ALCON VISION, LLC, )

Counterclaim Plaintiffs, )

v. )

AMO DEVELOPMENT, LLC, )  
AMO MANUFACTURING USA, LLC, )  
AMO SALES AND SERVICE, INC. )  
and JOHNSON & JOHNSON )  
SURGICAL VISION, INC., )

Counterclaim Defendants. )

**REDACTED - PUBLIC VERSION**

C.A. No. 20-842-CFC-JLH



**ALCON'S CONCISE STATEMENT OF FACTS IN SUPPORT OF ITS  
MOTION FOR SUMMARY JUDGMENT (NO. 3) THAT LACHES BARS  
J&J'S CLAIM FOR DISGORGEMENT**

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Dated: August 19, 2022

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1. Plaintiffs AMO Development, LLC, AMO Manufacturing USA, LLC, and AMO Sales and Service, Inc. (collectively, “J&J”) seek to disgorge [REDACTED] in revenue from defendants Alcon Vision, LLC, Alcon Laboratories, Inc., and Alcon Research, LLC (collectively, “Alcon”). A1900, Stamm Opening Rep. Table 1.
2. J&J filed a First Amended Complaint in this case on September 28, 2020, alleging copyright infringement based on the allegation that LenSx, a laser-assisted cataract surgery system marketed by defendants Alcon Vision, LLC, Alcon Laboratories, Inc., and Alcon Research, LLC (collectively, “Alcon”), was developed based on source code copied from J&J’s iFS Laser system. D.I. 16 ¶¶2, 98–99; *see* D.I. 141 ¶¶2, 100–02.
3. J&J possessed the facts underlying the copyright infringement allegations in its First Amended Complaint in 2014. A268, Pls.’ Resp. to RFA No. 15 (“J&J Vision admits that as of the end of 2014, AMO possessed the facts underlying J&J Vision’s copyright allegations as presented in the First Amended Complaint, D.I. 16.”).
4. J&J decided not to sue Alcon for copyright infringement as of 2015. A265, Pls.’ Resp. to RFA No. 10 (J&J admitting that “as of 2015, following the 2014 LenSx Investigation,” it “decided not to bring suit against Alcon for copying J&J Asserted Source Code Works.”).

Respectfully submitted,

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**WORD COUNT CERTIFICATION**

The undersigned counsel hereby certifies that Alcon's Concise Statement of Facts In Support of Its Motion For Summary Judgment (No. 3) that Laches Bars J&J's Claim for Disgorgement contains 209 words excluding the cover page, tables and signature blocks, as counted by Microsoft Word, in 14-point Times New Roman font.

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**CERTIFICATE OF SERVICE**

I, Andrew E. Russell, hereby certify that on August 19, 2022, this document was served on the persons listed below in the manner indicated:

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